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File No. B. Special Tribunal Continuance/46

Legal **DEPARTMENT**

B **BRANCH**

p. 28 (K) / 1946

K.S.R. 2615.

Subject:

A Bill to provide for the Continuance & Jurisdiction and power in respect of Certain Bombay Cases Pending before the Second Special Tribunal at Lahore Constituted under the Criminal Law Amendment Ordinance 1943.

L. A. Bill No. XXIII of 1946.

Bom. Act No. XXI of 1946.

File No. B. Special Tribunal Continuance/46.

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Legal Department File No.3.Special Tribunal Continuance/46.

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2.	458-P. 3-9-46	Draft Bill.	3-10 (pp.5-10 not copied)
3.	522-L 10-9-46	Publication of the Bill.	11-22 (pp.13-22 not copied)
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MRP.
22/5/56.

23/5 K.S.R. 23/5.

Office of the R.L.A.

The draft Bill sent by the Government of India is not in order. It contains some obvious defects. For instance clause 3(2) of the draft Bill which continues in force, section 1 of the Criminal Law Amendment Ordinance, 1943, which is an extent section, and section 3 of the Ordinance which empowers the Central Government to establish Tribunals at Lahore, Lucknow, Calcutta and Amravati, places beyond the legislative and executive power of the Province, are not within the competence of the Provincial legislature. Sections 1 and 3 of the Ordinance are therefore excluded in clause 3 of the revised Bill sent herewith and consequential amendment is made in respect of clause (b) of section 3 of the Ordinance.

2. Within the short time at L.D's disposal it has not been possible to trace all notifications, appointments and rules referred to in clause 3 of the draft Bill sent by the Government of India and to verify which of them could be validly made by the Provincial Government, but in view of the urgency of the case this Government may take on trust the Government of India's draft and take steps to enact the Bill into law before 30th September next.

3. The subject-matter of the Bill falls under entry 1 in List II and under entries 1, 2 and 8 in List III in the Seventh Schedule to the Government of India Act, 1935. The provisions of sub-clause (2) of clause 3 continue in force certain provisions of the Criminal Law Amendment Ordinance, 1943, amongst which is section 9 laying down special rules of evidence. The provisions of sub-clause (2) are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian law with respect to a matter enumerated in the Concurrent

Legislative

Legislative List. It will, therefore, have to be reserved for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935. The H.D. will no doubt attach to the Bill the necessary S.O.R.

Sd. P. N. Moos
3/9/46
Remembrancer of Legal Affairs.

U.R.to H.D.,No.458-P, dated the 3rd September 1946.

MRP.
22/5/66.

Bills.

A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.622-L.

Council Hall, Poona, 10th September 1946.

Memorandum from the Home Department No.668/5, dated the 10th September 1946.- Transferring for necessary action, the papers relating to a Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 11th September 1946, as Bill No.XXIII of 1946.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 14th September 1946.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Original Sd. S.L.Chaudhari
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and the Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).

The Home Department,
*The Oriental Translator to Government,
The Secretary to the Bombay Legislative Assembly,
The Director of Information, Bombay,
} with a copy of the Bill and S.O.R.

*With five extra copies of the Bill.

MRP.
22/5/56.

Legal Department.

As desired by H.E., the question whether certain provisions of the Bombay Electricity (Emergency Powers) Bill, the Bombay Essential Commodities and Cattle (Control) Bill and the Bombay Special Tribunal (Continuance) Bill are repugnant to the Indian Evidence Act, 1872 has been reexamined and the R.L.A. is inclined to adhere to his previous opinion that the said provisions are repugnant.

2. In the case of the fitst Bill, that is, the Bombay Electricity (Emergency Powers) Bill, it was pointed out inter alia that the provisions of clause 9 of the Bill were repugnant to the Indian Evidence Act, 1872, which is an existxx ing law relating to entry 5 in List III. Clause 9 of the Bill provides that if the person referred to in section 8 is a company or other body corporate, the managing director, manager, secretary or other principal officer managing its business shall be deemed to be guilty of such contravention. It is true that under section 11 of the Indian Penal Code, the word "person" includes any company or association or body of persons whether incorporated or not. But having regard to the provisions of section 2 of the Indian Penal Code every person liable to punishment under the Code, means a natural person and does not include juridical persons such as corporations. Any offence if committed by such members of a corporate body is as a rule only punishable as committed by such members of it as took part in the act. (See Ratanlal's Law of Crimes p.8). The effect of clause 9 of the Bill, however, is that even though an order may be contravened by a particular person e.g. an employee or a corporate body, the managing director, manager, secretary or other principal officer managing its business, shall be deemed to be guilty of such contravention. In a criminal case the burden lies ordinarily

on the

on the prosecution to prove the existence of facts, e.g. the contravention of an order by the person actually guilty of the contravention (see section 101 of the Indian Evidence Act). Clause 9 prescribes a different rule of evidence whereby the managing director, manager, secretary or other principal officer of the corporate body is deemed guilty of contravention committed by a corporate body, even though there may be no evidence against him that he had actually taken part in the contravention. Viewed in that light clause 9 would be repugnant to the Indian Evidence Act, 1872.

3. Sub-clause (1) of clause 6 of the Bombay Essential Commodities and Cattle (Control) Bill provides for the manner of publication and service of orders. Sub-clause (2) lays down that where a question arises whether a person was duly informed of an order, compliance with the requirements of sub-clause (1) shall be conclusive proof that he was so informed. This provision which shifts the burden of proof from the prosecution is repugnant to the provisions contained in section 101 of the Indian Evidence Act. Clause 12 which relates to offences by a corporate body and makes the director, manager, secretary or agent of such body liable for the contravention of any order is also repugnant to section 101 of the Indian Evidence Act for the reasons stated in para.2 above. Clause 12 was not referred to in the letter forwarding the Bill as it was considered sufficient to refer only to clause 6(2) for the purpose of reserving the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

4. In the case of the Bombay Special Tribunal (Continuance) Bill, 1946, it was pointed out that the provisions of clause 3(2) continued in force section 9

and

and certain other provisions of the Criminal Law Amendment Ordinance, 1943. Section 9 provides inter alia that when any person is charged before a Special Tribunal with an offence punishable under section 161 or section 165 of the Indian Penal Code, the fact that such person is in possession of pecuniary resources for which he cannot satisfactorily account, shall be taken as a relevant fact in deciding whether he is or is not guilty of the particular offence with which he is charged. As the marginal note to the section indicates, this provision lays down a special rule of evidence. It throws the onus of proof on the accused and therefore appears to be repugnant to section 101 of the Indian Evidence Act.

5. On the whole it is safer to take the view that the provisions referred to above are repugnant to the Indian Evidence Act, and to reserve the Bills on that account for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

Sd.

Secretary to Government.

U.R. to Secretary to Governor, No.612-P, dated the 30th Sept.1946

MRP.
22/5/56.

No.G.S.2995.
Office of the Governor's Secretary
Government House

From

D. Symington, Esquire, CIE, ICS.,
Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislative Assembly/Council

GANESHKHIND, 23rd September 1946.

Subject:- THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE)Bill,1946.

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 17th and 18th September 1946 respectively, I am directed to state, for the information of the Hon'ble the Speaker / President that as the provisions of the Criminal Law Amendment Ordinance, 1945, amongst which is section 9 laying down special rules of evidence. The provisions of sub-clause (2) are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian law with respect to a matter enumerated in the Concurrent Legislative List, and the Bill therefore will have to be reserved for the consideration of His Excellency the Governor-General under section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Act, to declare that he reserves the Bill for the consideration of the Governor-General.

I have the honour to be ,
Sir,
Your most obedient servant,

Sd. D. Symington

Secretary to the Governor of Bombay.

No.G.S.2996.
Ganeshkhind, 23rd September 1946.

Copy forwarded with compliments to:-

The Secretary to Government, Legal Department, with reference to his letter No.964-L, dated the 21st September 1946.
The Secretary to Government, Home Department, with reference to his endorsement (No.and date Nil).

By order of the Governor of Bombay,

Sd. D. Symington,
Secretary to the Governor of Bombay.

MRP.
22/5/56.

No.964-L.
Legal Department,
Council Hall, Poona, 21st September 1946.

From

P.N.Moos, Esquire, C.I.E., I.C.S.,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 17th and the 18th September 1946 respectively.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entry 1 in List II and under entries 1, 2 and 5 in List III in the Seventh Schedule to the Government of India Act, 1935.

4. The provisions of sub-clause (2) of clause 3 continue in force certain provisions of the Criminal Law Amendment Ordinance, 1943, amongs which is section 9 laying down special rules of evidence. The provisions of sub-clause (2) are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian law with respect to a matter enumerated in the Concurrent Legislative List. The Bill will,

therefore, have to be reserved for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies each of the

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	items Nos.1 to 3 and two copies of item 4 of the papers noted in the margin. The Bill was not referred to a Select Committee.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 17th September 1946 and of the Bombay Legislative Council dated the 18th September 1946.	

6. It is requested that His Excellency the Governor General may be moved to give his assent to the Bill before the 1st October 1946 and to convey the assent by telegram as the new Act must come into force on that date and also to communicate the date on which the assent is given.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. P.N.Moos
21/9/46

Secretary to the Government of Bombay,
Legal Department.

Through the Secretary to the Government of Bombay,
Home Department.

MRP.
22/S/86.

Acts.

Publication of the Bombay Special Tribunal (Continuance) Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.1045-L.

Council Hall, Poona, 29th September 1946.

Letter to the Secretary to the Governor, No.964-L, dated the 21st September 1946.

Letter from the Secretary to the Governor, dated the 29th September 1946:- Stating that the Bombay Special Tribunal (Continuance) Bill, 1946, received the assent of the Governor-General on the 28th September 1946.

RESOLUTION:- The law should be published as Bombay Act No.XXI of 1946 in the Bombay Government Gazette, dated the 30th September 1946.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department with reference to the memorandum from that Department No.668/S, dated the 10th September 1946.

By order of the Governor of Bombay,

Original. Sd. S.L.Chaudhari
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act ~~xxx~~ and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).

The Home Department,)
*The Oriental Translator to Government,)
The Secretary to the Bombay Legislative Council,) with a copy of the Act.
The Secretary to the Bombay Legislative Assembly,)
The Director of Information,)

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*With five extra copies of the Act.

No.GS.3203.
Office of the Governor's Secretary
Government House

From

D. Symington, Esquire, CIE. ICS.
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department.

Ganeshkhind, 8th October 1946.

Subject:- THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE) BILL, 1946.

Sir,

With reference to the correspondence ending with my letter No.GS.3083, dated 29th September 1946, on the above subject, I am directed to forward herewith the authentic copy of the Bombay Special Tribunal (Continuance) Bill, 1946, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd. Ramos
For Secretary to the Governor of Bombay.

MRP.
22/5/56.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 11TH SEPTEMBER 1946.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules:—

L. A. BILL No. XXIII OF 1946.

A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

Ordinance No. XXIX of 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay;

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate, doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases :

IT IS HEREBY enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come into force on the 1st day of October 1946.

Definitions.

2. In this Act,—

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943 ; Ordinance No. XXIX of 1943.

(*b*) "the Tribunal" means the Special Tribunal known as the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

(*3*) The Tribunal shall sit at Bombay :

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

103 15

SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offences charged against the accused.
1.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
2.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.

STATEMENT OF OBJECTS AND REASONS.

Two criminal cases under rule 81 (4) of the Defence of India Rules read with the Iron and Steel (Movement by Rail) Order, 1942, and the Iron and Steel (Control of Production) Order, 1941, which were allotted for trial to a Special Tribunal known as the Second Special Tribunal constituted by a notification of the Government of India under section 3 of the Criminal Law Amendment Ordinance, 1943, are not likely to be completed by the 1st October 1946 when the Tribunal will cease to function. It is therefore proposed to continue the Tribunal beyond that date to enable it to dispose of the two cases referred to. The Bill is intended to give effect to this proposal.

9th September 1946. (Signed) MORARJI DESAI.

By order of the Governor of Bombay

S. L. CHAUDHARI,
Assistant Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 10th September 1946.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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L. A. BILL No. XXIII OF 1946.

A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

(As read for the third time and passed by the Legislative Assembly on the 17th September 1946.)

Ordinance No. XXIX of 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay;

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate, doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases:

IT IS HEREBY enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come into force on the 1st day of October 1946.

Definitions.

2. In this Act,—

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943; Ordinance No. XXIX of 1943.

(*b*) "the Tribunal" means the Special Tribunal known at the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

(*3*) The Tribunal shall sit at Bombay:

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offiences charged against the accused.
1. (1)	Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
(2)	Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore.	
(3)	Kailashpat Singhania, Kamla Tower, Cawnpore	
(4)	. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore.	
(5)	S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	
2. (1)	Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.
(2)	Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore.	
(3)	Kailashpat Singhania, Kamla Tower, Cawnpore	
(4)	R. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore.	
(5)	S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	

STATEMENT OF OBJECTS AND REASONS

Two criminal cases under rule 81 (4) of the Defence of India Rules read with the Iron and Steel (Movement by Rail) Order, 1942, and the Iron and Steel (Control of Production) Order, 1941, which were allotted for trial to a Special Tribunal known as the Second Special Tribunal constituted by a notification of the Government of India under section 3 of the Criminal Law Amendment Ordinance, 1943, are not likely to be completed by the 1st October 1946 when the Tribunal will cease to function. It is therefore proposed to continue the Tribunal beyond that date to enable it to dispose of the two cases referred to. The Bill is intended to give effect to this proposal.

9th September 1946. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXIII OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 17th September 1946)

A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

[MR. MORARJI R. DESAI, M.L.A.]

PRINTED AT THE YERAVDA PRISON PRESS, POONA.

L. A. BILL No. XXIII OF 1946.

An Act to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

(As read for the third time and passed by the Legislative Assembly on the 17th September 1946.)

(As read for the third time and passed by the Legislative Council on the 18th September 1946)

Ordinance No. XXIX of 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay;

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate, doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases:

IT IS HEREBY enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come into force on the 1st day of October 1946.

Definitions.

2. In this Act,—

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943; Ordinance No. XXIX of 1943.

(*b*) "the Tribunal" means the Special Tribunal known at the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

(*3*) The Tribunal shall sit at Bombay:

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

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SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offences charged against the accused.
1. (1)	Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
(2)	Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore.	
(3)	Kailashpat Singhania, Kamla Tower, Cawnpore	
(4)	B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore.	
(5)	S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	
2. (1)	Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.
(2)	Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore.	
(3)	Kailashpat Singhania, Kamla Tower, Cawnpore	
(4)	R. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore.	
(5)	S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXIII OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 17th September 1946)

(As read for the third time and passed by the Legislative Council on the 18th September 1946)

An Act to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

[Mr. Morarji R. Desai, M.L.A.]

PRINTED AT THE YERAVDA PRISON PRESS, POONA.

The following Act of the Bombay Legislature having been assented to by the Governor General on the 28th September 1946 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXI OF 1946.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 30th September 1946.)

An Act to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

Ordinance No. XXIX of 1943.

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay;

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate,

doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period ;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases :

IT IS HEREBY enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come into force on the 1st day of October 1946.

Definitions.

2. In this Act,—

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943 ; Ordinance No. XXIX of 1943.

(*b*) "the Tribunal" means the Special Tribunal known as the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

(*3*) The Tribunal shall sit at Bombay :

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

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SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offences charged against the accused.
1.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
2.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXIII OF 1946 (A BILL TO PROVIDE FOR THE CONTINUANCE OF JURISDICTION AND POWERS IN RESPECT OF CERTAIN BOMBAY CASES PENDING BEFORE THE SECOND SPECIAL TRIBUNAL AT LAHORE CONSTITUTED UNDER THE CRIMINAL LAW AMENDMENT ORDINANCE, 1943).

Mr. MORARJI R. DESAI (Minister for Home): Sir, may I request that the third item on the agenda, namely, Bill No. XXIII of 1946, may be taken up first? It is not likely to be contested, and it can be passed within a short time.

The Hon. the PRESIDENT: Have hon. Members any objection to taking up Bill No. XXIII of 1946? It is item No. 3 on the agenda. If hon. Members have no objection, we may take that up as item No. 1. [*No hon. Member having dissented.*] Then we will take up that Bill first.

Mr. MORARJI D. DESAI: Sir, I beg to introduce L. A. Bill No. XXIII of 1946 (A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943).*

The Hon. the PRESIDENT: L. A. Bill No. XXIII of 1946 (A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943) is introduced.

Mr. MORARJI R. DESAI: Sir, I beg to move that L. A. Bill No. XXIII of 1946 (A Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943) be read a first time.

Question proposed.

Mr. MORARJI R. DESAI: Sir, the Bill becomes necessary as the cases before the Special Tribunal which has been appointed to try criminal cases by the Government of India for breaches under the Iron and Steel (Control of Production) Order, 1941, are not yet finished, and those cases are likely to take some time. As the Defence of India Rules will cease to be in force from 1st October 1946, Government will have no power to continue the Special Tribunal. Therefore, it becomes necessary for Government to bring in this Bill and to continue the Special Tribunal. This has been taken up by this Government at the request of the Government of India.

Dr. G. S. MAHAJANI: On a point of information, Sir. I would like to know whether it is at the instance of the present Government of India or at the instance of the caretaker Government that this is being done.

* Bill was passed by the Legislative Assembly on Sept. 17, 1946.

Mr. MORARJI R. DESAI : The request came in before the *interim* Government took office.

Sir BEHRAM KARANJIA : So, the Central Government are giving powers ?

Mr. MORARJI R. DESAI : No, we are giving them powers.

The Hon. the PRESIDENT : Originally the courts were constituted by the Government of India under the Criminal Law Amendment Ordinance, which ceases to be in force after six months after the termination of the war. The offence has taken place in this Province, and it is the duty of the Government of Bombay to legislate, and that is why they have brought up this Bill to continue these courts or tribunals constituted under the Ordinance. That is the position.

Question, " That the Bill be read a first time ", put, and agreed to.

Mr. MORARJI R. DESAI : Sir, I beg to move that L. A. Bill No. XXIII of 1946 (a Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943) be read a second time.

Question put, and agreed to.

Bill read Clause by Clause.

The Hon. the PRESIDENT : As there are no amendments to the Bill, I will put clauses 1 to 3 of the Bill together.

Clauses 1, 2 and 3 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

Mr. MORARJI R. DESAI : Sir, I beg to move that L. A. Bill No. XXIII of 1946 (a Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943) be read a third time and passed.

Question put, and agreed to.

The Hon. the PRESIDENT : L. A. Bill No. XXIII of 1946 (a Bill to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943) is read a third time and passed.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.